

1 Q. Did you ever talk to anybody at
2 Business Options, or Buzz, or Avatar about this
3 letter?

4 A. No.

5 Q. So you had no responsibility in
6 responding to it?

7 A. No.

8 Q. Thank you. Did you know if Ms. Dennie
9 had any responsibility responding to that letter?

10 A. No, I don't know.

11 Q. We talked a little bit earlier about
12 the Vermont commission investigation.

13 A. Uh-huh.

14 Q. Are you aware of how the Vermont
15 investigation was resolved, if at all?

16 A. Yes.

17 Q. How was that?

18 A. Customers were refunded all charges
19 that were incurred from January of 2002
20 throughout the entire year.

21 Q. Do you remember if -- were you aware,

1 in November or December, that Business Options
2 entered into in an agreement with the Vermont
3 commission to terminate that investigation?

4 A. No.

5 Q. Did you know anything about that?

6 A. No.

7 Q. You don't know anything about a
8 stipulation between Business Options and the
9 Vermont commission?

10 A. No.

11 Q. I'm showing you a fax from the State
12 of Vermont to Mr. Kurtis Kintzel, that looks to
13 have been sent around November 26. What it
14 includes is an order and a stipulation resolving
15 the Vermont investigation. And I want you to
16 take a couple of minutes and just kind of scan
17 that.

18 (Witness Reviews Document.)

19 Q. You've had a little bit of time to
20 view the Vermont stipulation and the Vermont
21 order. Do you have any memory of ever seeing

1 that before today?

2 A. No.

3 Q. Do you have any memory of having any
4 discussions with anybody at Business Options
5 about that stipulation or the order adopting that
6 stipulation?

7 A. Bits and pieces of it.

8 Q. And when was that? When did you have
9 these discussions?

10 A. Probably in the beginning of December.

11 Q. With whom?

12 A. Shannon Dennie.

13 Q. And what was the nature of those
14 discussions?

15 A. I believe that she informed me that we
16 had to refund and/or credit the customers and
17 have our license withdrawn from the state.

18 Q. Did she tell you why?

19 A. She told me it was because of
20 complaints and not filing reports.

21 Q. Did she tell you anything about Rule

1 63.71?

2 A. I don't believe so.

3 MR. HAWA: Rule 63.71 being?

4 MR. HARKRADER: 47 CFR 63.71.

5 MR. HAWA: What's the title of that
6 rule? I'd rather use the title of that rule so
7 we don't have statutory reference.

8 MR. HARKRADER: Okay. The
9 Discontinuance Rule, would that be all right?

10 MR. HAWA: Yes.

11 BY MR. HARKRADER:

12 Q. When did that conversation take place?

13 A. Probably in the beginning of December.

14 Q. The first week in December?

15 A. Yes.

16 Q. So it was after Ms. Dennie had given
17 you the November 19th letter from the State of
18 Vermont?

19 A. Correct.

20 Q. Did you have any other discussions
21 with Ms. Dennie or anyone else about that

1 stipulation or the order adopting the
2 stipulation?

3 A. No.

4 Q. So to your memory, you had one
5 conversation with anyone about --

6 A. I had a couple conversations with
7 Shannon Dennie regarding the same information.

8 Q. All within that same period?
9 Generally, the first week in December?

10 A. Towards the end of November, first
11 week of December.

12 Q. Did you have any conversations with
13 her about this stipulation or the order adopting
14 that stipulation as it related to what she asked
15 you to do in response to the November letter?

16 A. I'm sorry, can you repeat that?

17 Q. Let me ask it a better way.

18 A. Thank you.

19 Q. Or what I hope will be a better way.

20 When you were having the conversations
21 with Ms. Dennie about the stipulation and the

1 order, did you discuss with her the November 19th
2 letter as well?

3 A. No. She might have been discussing
4 from the letter, but we were not going over the
5 letter. Is that what you mean? I don't recall
6 seeing this letter.

7 Q. Just for the purposes of my question,
8 I'll call this the stipulation, and that will be
9 the November 19th letter (indicating).

10 A. Okay.

11 Q. When you were discussing with Ms.
12 Dennie the stipulation, did you ever discuss at
13 the same time the November 19th letter?

14 A. It wasn't really specific like that.
15 She was basically letting me know what needed to
16 be done. I don't recall her referring to any
17 specific letter.

18 Q. What was she telling you needed to be
19 done?

20 A. That I -- that we needed to do a
21 Discontinuance Letter to the customers. She did

1 show me a letter; I don't believe it was this
2 one. And that they needed to be credited and
3 refunded since January of 2002.

4 Q. Was it part of your responsibilities
5 to credit and refund the customers?

6 A. No.

7 Q. Why was she telling you that the
8 customers needed to be credited or refunded?

9 A. She wasn't telling me to do that. She
10 was just telling me that that was what needed to
11 be done.

12 Q. So you had no obligation to put that
13 in motion?

14 A. No.

15 Q. Did you have any other obligation or
16 did Ms. Dennie ask you to do anything besides
17 draft the Discontinuance Letter to the customers?

18 A. I had to do the Discontinuance
19 Application.

20 Q. To the FCC?

21 A. To the FCC, correct.

1 Q. Did Ms. Dennie ask you to do that?

2 A. I think the FCC told me to do that.

3 Q. And who at the FCC told you to do
4 that?

5 A. I believe it was John Mincoff.

6 Q. Do you remember when he told you to do
7 that?

8 A. Shortly after the Discontinuance
9 Letter went out, I believe.

10 Q. Okay. I'm going to show you what I
11 think is a copy of the Discontinuance Letter
12 you're referring to. Will you take a quick look
13 at that and let me know if that's the case.

14 A. Yes.

15 Q. It is?

16 A. Uh-huh.

17 Q. When did you draft that?

18 A. I didn't.

19 Q. Do you know who did?

20 A. No, I don't. I drafted one, but
21 that's not the one I drafted.

1 Q. How does that one differ from the one
2 that you drafted?

3 A. We received a sample from Vermont of
4 the information, of what it should be in this
5 letter, and I made a few changes, but I basically
6 mirrored the one that Vermont sent.

7 Q. Is that the version that was sent out
8 to Vermont customers?

9 A. No.

10 Q. Who changed it?

11 A. I don't know who changed it.

12 Q. Who sent the letter out to the Vermont
13 customers?

14 A. I believe it was division one.

15 Q. Do you remember anyone --

16 A. You mean, that mailed them out?

17 Q. Yes.

18 A. Yes. I believe that was division one.

19 Q. Do you know who authorized the mailing
20 of those letters?

21 A. I believe Kurtis. We didn't do that.

1 I didn't directly hear anybody say, "This person
2 has to do it."

3 Q. So that's -- you're just speculating
4 that Kurtis authorized that?

5 A. Yes.

6 Q. You don't know that for sure?

7 A. No.

8 Q. How soon, after Ms. Dennie asked you
9 to draft the Discontinuance Letter, did you draft
10 it or write it?

11 A. Either that day or the following day.
12 I believe it was the same day that she asked me.
13 We already had the sample.

14 Q. You had the sample from the State of
15 Vermont?

16 A. Correct.

17 (A short break was taken.)

18 Q. I'd like to show you a copy -- a
19 different copy of the final stipulation. I think
20 it's an unsigned copy that was sent on September
21 9th. And it was attached to a letter to Bill

1 Brzycki. And it's Bate Number 08135. I realize
2 you were not employed by Buzz Telecom at the
3 time. But that attaches to it a sample
4 Discontinuance Letter from the State of Vermont,
5 and I want you to take a look at that, please.

6 (Witness Reviewing Document.)

7 A. Yes.

8 Q. And the Bate Number on that document
9 is entitled "Illustrative Sample Discontinuance
10 of Service Letter, 08142;" is it not?

11 A. Correct.

12 Q. Is that the letter that you used as a
13 reference when drafting the Discontinuance
14 Letter?

15 A. Yes.

16 Q. How did you get a copy of that letter?

17 A. Shannon Dennie gave it to me.

18 Q. Do you remember when she gave that to
19 you?

20 A. I don't remember.

21 Q. Was it around the time that she spoke

1 with you and gave you the November 19th letter?

2 A. It wasn't the same time.

3 Q. It was the end of November?

4 A. Either the end of November or the very
5 beginning of December.

6 Q. And you took that illustrative letter
7 from the State of Vermont and turned that into a
8 Discontinuance Letter?

9 A. Yes.

10 Q. That you or someone was going to send
11 out to the customers in Vermont?

12 A. Yes.

13 Q. And that letter was going to let them
14 know that they were no longer going to be able to
15 have service from Business Options?

16 A. Yes.

17 Q. And then what did you do with that
18 letter after you drafted it?

19 A. I gave it to Shannon.

20 Q. Do you know what she did with that
21 letter?

1 A. I think she gave it to Kurtis.

2 Q. Do you know that or are you
3 speculating?

4 A. I'm speculating.

5 Q. Did she say anything to you about what
6 she was going to do with that letter or what she
7 did with that letter?

8 A. No.

9 Q. I've already shown you this letter,
10 which is a copy of a Discontinuance Letter, Bate
11 Stamp 08077. And it is an unsigned letter that
12 bears your signature line on it; is it not?

13 A. Yes.

14 Q. But that's not the letter that you
15 drafted initially?

16 A. No.

17 Q. And that's not the letter you drafted
18 at all?

19 A. Period, no.

20 Q. I also want to show you a document
21 without a Bate Number that appears to be

1 identical, yet this one bears your signature.

2 A. Yes.

3 Q. Is that your signature?

4 A. Yes.

5 Q. Can you tell me why that document has
6 your signature, why that letter has your
7 signature?

8 A. Kurtis asked me to sign it.

9 Q. When did he do that?

10 A. Are you talking about a specific date?

11 Q. How about in relation to when all of
12 this was going on?

13 A. It was probably late November,
14 December or January, somewhere around there.

15 Q. I'm trying to get a chronology in my
16 mind of when things were happening.

17 A. It's hard for me to remember because I
18 didn't really understand what I was doing.

19 Q. Did you say anything to Kurtis when he
20 asked you to sign that?

21 A. I don't believe so.

1 Q. Did you ask him why?

2 A. Why it was changed, no, I didn't.

3 Q. Did you ask him why he asked you to
4 sign that letter?

5 A. No, I didn't.

6 Q. And you didn't talk to him at all
7 about why the letter had changed from the version
8 that you wrote?

9 A. He simply stated that there was a few
10 changes made in the letter.

11 Q. Did he tell you why those changes were
12 made?

13 A. No, he didn't.

14 Q. And he didn't tell you who made those
15 changes?

16 A. No, he didn't. I stated that he put
17 my name on it, so now the customers are going to
18 be mad at me.

19 Q. You told him that?

20 A. Yes.

21 Q. What did he say?

1 A. Nothing.

2 Q. Was he angry?

3 A. No.

4 Q. Did he laugh?

5 A. I made it like a joke. He laughed
6 with me.

7 Q. He laughed. And what did he do with
8 the letter after you signed it?

9 A. I don't know.

10 Q. Did he leave it with you?

11 A. No.

12 Q. He took it away?

13 A. Yes.

14 Q. I don't know if I've seen the other
15 version of the letter.

16 A. My version?

17 Q. Yes. That you're talking about.

18 A. I don't believe you have.

19 Q. Do you know why I haven't?

20 A. Because it wasn't sent out.

21 Q. Is it anywhere in your files?

1 A. I believe so.

2 MR. HARKRADER: Have you sign that,

3 Kemal?

4 MR. HAWA: No.

5 MR. HARKRADER: I'd like to see a copy
6 of that letter.

7 THE WITNESS: Would you like me to go
8 get it?

9 MR. HARKRADER: You have it with you?

10 THE WITNESS: No. But the office is
11 right there.

12 MR. HARKRADER: I would.

13 THE WITNESS: Right now?

14 MR. HARKRADER: No. Not right now.
15 We'll try to be efficient about this.

16 MR. HAWA: This is the letter that
17 mirrored the Vermont proposed Discontinuance
18 Letter?

19 MR. HARKRADER: Precisely.

20 MR. HAWA: The Vermont illustrative
21 Discontinuance Letter.

1 MR. HARKRADER: The one that Ms. Green
2 drafted in response to Ms. Dennie's request.

3 MR. HAWA: The one that doesn't comply
4 with the FCC's rules.

5 THE WITNESS: The one that's just like
6 this (indicating). This is in compliance with
7 the FCC rules.

8 BY MR. HARKRADER:

9 Q. Do you know why that doesn't comply
10 with the FCC's rules?

11 A. This one (indicating)?

12 Q. Whatever one you just held up.

13 A. I said that it did.

14 MR. SHOOK: This one, that one, we're
15 never going to have a clue what we're talking
16 about here.

17 MR. HAWA: I understand.

18 THE WITNESS: 08142, I believe was in
19 compliance with FCC rules.

20 MR. HARKRADER: I'm sorry. I thought
21 you held up 08142 and said that it did not comply

1 with the FCC.

2 THE WITNESS: Oh, no.

3 MR. HARKRADER: You did not say that?

4 THE WITNESS: No. I did not.

5 MR. HAWA: 08142 is the illustrative
6 sample Discontinuance Letter by Vermont.

7 BY MR. HARKRADER:

8 Q. To your knowledge, did the
9 Discontinuance Letters that went out to the
10 Vermont customers go out under your signature?

11 A. Yes.

12 Q. The copy of that letter that has your
13 signature on it that does not have a Bate Stamp,
14 but starts out, "Business Options will no longer
15 be servicing Vermont customers." Is that your
16 understanding of the letter that went out to the
17 Vermont customers?

18 A. Yes.

19 Q. I'd like to direct your attention back
20 to November 19th letter.

21 A. Okay.

1 Q. You can put those aside if that will
2 help you. And I believe your testimony is, and
3 please tell me if I'm wrong, that after Ms.
4 Dennie came to you and gave you that letter and
5 asked you to do something in response to that,
6 that something was drafted a Discontinuance
7 Letter to the Vermont customers?

8 A. Right, uh-huh.

9 Q. You also said earlier that you tried
10 to find out what 47 CFR Section 63.71 said?

11 A. Right.

12 Q. And you said you tried to do that soon
13 thereafter within a day?

14 A. Right.

15 Q. Of Ms. Dennie coming to you. Did you
16 ever find out what 47 CFR Section 63.71 said?

17 A. Much later on. We were rushed for
18 time.

19 Q. When did you find out what 47 CFR
20 Section 63.71 said?

21 A. Probably towards the end of December.

1 Q. Was it after the Discontinuance
2 Letters had been sent out to the Vermont
3 customers?

4 A. Yes.

5 Q. Was it after you had filed the
6 Discontinuance Application with the FCC?

7 A. Yes.

8 Q. So it was also after you filed the
9 waiver with the FCC and also after you had had
10 the conversations with Mr. Mincoff at the FCC?

11 A. Yes.

12 Q. What is your understanding of the
13 purpose of this November 19th letter?

14 A. My understanding of it, just letting
15 BOI know what needs to be done.

16 Q. And looking at the sentence in 1-A
17 that says, "Our agreement calls for BOI to send
18 notice to the effected customers in the form of a
19 letter attached to the stipulation," that let
20 you know what?

21 A. That we needed to send a letter to

1 customers notifying them of what was going to
2 happen.

3 Q. And looking at the sentence in 1-B,
4 which says, "Recipients of the notice have 15
5 days from receipt to file objections with the
6 FCC." What was that sentence letting you know?

7 A. That they have 15 days after the time
8 they receive the letter to object to the letter.

9 Q. And in this sentence, who is "they"?

10 A. Customers.

11 Q. The Vermont customers?

12 A. The Vermont customers.

13 Q. And in the first sentence in 2-A,
14 which says, "BOI shall file Application for
15 Discontinuance with the FCC." What did that let
16 you know?

17 A. Just by reading it, I wasn't sure.
18 That's why I called the FCC.

19 Q. So you called the FCC on your own
20 after reviewing this letter?

21 A. Yes.

1 Q. Ms. Dennie did not ask you to call the
2 FCC?

3 A. She did ask me to call the FCC if I
4 had any questions and in regards to a
5 Discontinuance Letter.

6 Q. When did she tell you that?

7 A. I believe when she gave me the letter.

8 Q. When did you first contact the FCC, if
9 you recall?

10 A. I don't remember. It was after the
11 Discontinuance Letters went out.

12 Q. Do you remember when the
13 Discontinuance Letters went out?

14 A. I believe in the beginning of
15 December.

16 Q. You previously said that you first
17 talked to Mr. Mincoff at the FCC.

18 A. Yes.

19 Q. And in that conversation, he
20 instructed you on the discontinuance procedures?

21 A. Yes.

1 Q. Did he send you anything?

2 A. He sent me a sample of a
3 Discontinuance Application they received from
4 another company.

5 Q. And I previously showed you this
6 document, but is that what Mr. Mincoff sent to
7 you? And that is an FCC cover sheet followed by
8 an application on behalf of Cable and Wireless.

9 A. Yes.

10 Q. And what is that application from
11 Cable and Wireless for?

12 A. Discontinuance of a service.

13 Q. Does that refresh your memory as to
14 the approximate time period when you first came
15 in contact with Mr. Mincoff? The fax cover sheet
16 says December 18th.

17 A. It was probably a couple days before
18 that.

19 Q. That you first spoke with Mr. Mincoff?

20 A. I believe so.

21 Q. Were they long conversations?

1 A. Some of them were.

2 Q. How many did you have?

3 A. Quite a few.

4 Q. More than five?

5 A. Yes.

6 Q. More than ten?

7 A. Well, it was both him and John Adams
8 that I was speaking with. And I had a three-way
9 call, also.

10 Q. With the two of them?

11 A. Yes.

12 Q. So there's no way to separate out the
13 number of times you talked to each of them, is
14 there?

15 A. I don't remember.

16 Q. So you had roughly ten conversations
17 with the two of them or together over the course
18 of how many days?

19 A. Probably about two weeks.

20 Q. And you discussed the --

21 A. I don't remember it just being a